

REMARKS

The Notice of Non-Compliance mailed August 14, 2009 has been carefully considered. The Applicants have amended Claims 21, 26-28, 33, 34, and 41-44 and have cancelled Claims 23, 45 and 46. The Applicants reserve the right to further pursue the cancelled claims in a continuation and/or divisional application as well as for appeal purposes. Reconsideration in view of the following remarks is respectfully requested.

Election by Original Presentation

Claim 46 has been cancelled in the present response.

The 35 U.S.C. § 112 Second Paragraph Rejection

Claims 21, 23, 26-28, 33, 34 and 45 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter. In particular, it is alleged that the preamble recites a subcombination. These rejections are respectfully traversed. However, to expedite prosecution and clarify the claims, Applicants have amended Claim 21. Withdrawal of the rejection is respectfully requested.

Rejection under U.S.C. § 102

Claims 21, 23, 26-28, 33, and 34 stand rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by either one of U.S. Patent No. 6,169,777 to Yoshizawa et al. (hereinafter “Yoshizawa”).

Claims 41-44 stand rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by either one of U.S. Patent No. 5,490,186 to Gilmore et al. (hereinafter “Gilmore”), who disclose a

connecting device adapted for use with a transport housing. The Applicants respectfully traverse.

According to the M.P.E.P., a claim is anticipated under 35 U.S.C. § 102(a), (b) and (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

Yoshizawa describes a fuel transport container having a basket that has a basket hole including at least two adjacent inner side walls to be fit to a fuel assembly for housing the fuel assembly element in the basket hole. The fuel assembly element is directly housed in the basket hole of the basket. The fuel assembly housed in the basket hole is slid by bias means toward the two adjacent inner side walls thereof without pushing the fuel assembly to bias the housed fuel assembly in contact with the two adjacent inner side walls of the basket hole. (Yoshizawa, Abstract). However, Yoshizawa does not expressly or inherently teach clamping members which are selectively pivotable between a retracted position and an extended position. Moreover, Yoshizawa does not expressly or inherently teach a single connecting device which positions the upper end piece of the fuel assembly to bear directly in contact with two adjacent faces of the housing when the clamping members are in the retracted position. Further, Yoshizawa does not expressly or inherently teach that the fastening device suspends the fuel assembly within the housing.

Claim 21 recites, *inter alia*, a fastening device including a single connecting device located above an upper end piece of the fuel assembly, the single connecting device including first clamping members selectively pivotable between a retracted position and an extended position, wherein the first clamping members engage the upper end piece of the fuel assembly when in the extended position and make a rigid connection between the upper end piece of the fuel assembly and the open end of the housing of the transport basket in a predetermined relative

position such that the single connecting device positions the upper end piece of the fuel assembly to bear directly in contact with two adjacent faces of the housing when the first clamping members are in the retracted position and suspends the fuel assembly within the housing when the housing is oriented substantially vertically.

As stated above, Yoshizawa does not teach clamping members which are selectively pivotable between a retracted position and an extended position, as recited in Claim 21. Also, Yoshizawa does not teach a single connecting device which positions the upper end piece of the fuel assembly to bear directly in contact with two adjacent faces of the housing when the clamping members are in the retracted position, as recited in Claim 21. Further, Yoshizawa does not teach that the fastening device suspends the fuel assembly within the housing, as recited in Claim 21. Considering that Yoshizawa does not expressly or inherently disclose each and every element in Claim 21, a *prima facie* case of anticipation has not been established. Accordingly, Claim 21 is allowable over Yoshizawa.

Claims 26-28, 33 and 34 are all dependent on Claim 21 and are thus allowable of being dependent on a base claim.

Gilmore discloses a shipping container for a hexagonal nuclear fuel assembly including a plurality of grids which support fuel rods; and a bottom nozzle having an internal shoulder within a recess, a spherical taper, and a bottom end. The container include a top nozzle holder secured to the support, plural grid supports secured to the support, plural clamping frames for clamping the grids, plural guide plates for guiding the fuel assembly between adjacent grid supports, and a bottom nozzle holder secured to the support. (Gilmore, Abstract). However, Gilmore does not expressly or inherently disclose a control device which freely rotates about the longitudinal axis, wherein at least a portion of the control device vertically moves along the longitudinal axis upon being rotated in a first direction. Moreover, Gilmore does not teach a

claw mechanism that engages an upper end piece of the fuel assembly and moves the upper end piece along with the control device in an upward direction in the longitudinal axis in response to the control device being rotated in the first direction to suspend the fuel assembly within the transport basket.

Claim 41 recites, *inter alia*, a fastening device comprising: a control device positioned above the open end of the transport basket and configured to freely rotate about the longitudinal axis, wherein at least a portion of the control device vertically moves along the longitudinal axis upon being rotated in a first direction; and a claw mechanism operably coupled to the control device, wherein the claw mechanism pivots between a retracted position and an extended position in response to rotation of the control device, wherein the claw mechanism engages an upper end piece of the fuel assembly when in the extended position and moves the upper end piece along with the control device in an upward direction in the longitudinal axis in response to the control device being rotated in the first direction to suspend the fuel assembly within the transport basket.

As stated above, Gilmore does not expressly or inherently disclose a control device which freely rotates about the longitudinal axis, wherein at least a portion of the control device vertically moves along the longitudinal axis upon being rotated in a first direction, as recited in Claim 41. Moreover, Gilmore does not teach a claw mechanism that engages an upper end piece of the fuel assembly and moves the upper end piece along with the control device in an upward direction in the longitudinal axis in response to the control device being rotated in the first direction to suspend the fuel assembly within the transport basket, as recited in Claim 41. Considering that Gilmore does not expressly or inherently disclose each and every element in Claim 41, a *prima facie* case of anticipation has not been established. Accordingly, Claim 41 is allowable over Gilmore.

Claims 42-44 are dependent on Independent Claim 41, which is allowable over Gilmore. Accordingly, Claims 42-44 are allowable for being dependent on an allowable base claim.

Conclusion

It is believed that this reply places the above-identified patent application into condition for allowance. Early favorable consideration of this reply is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-3557. A one month extension fee accompanies this reply.

Respectfully submitted,

Dated: October 14, 2009

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